



FRAUD AND CORRUPTION POLICY AND PROCEDURE

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MITCHELL SHIRE COUNCIL





PURPOSE

The purpose of this policy is to demonstrate Council's commitment to the prevention, deterrence, detection and investigation of all forms of fraud and corrupt conduct to aid in the prevention of fraud and corrupt conduct.

Council aims to establish an environment in which fraudulent or corrupt conduct is not tolerated and one in which Councillors and employees (including Officers) do not act dishonestly. This environment will promote a culture where all fraudulent activities and corrupt conduct once noticed or legitimately suspected are reported, investigated and resolved in a timely and fair manner.

Council will not tolerate any incident of fraud or corrupt conduct. Councillors and employees will act in accordance with applicable Codes of Conduct and in the spirit of ethical standards.

1. POLICY

Council is committed to protecting its revenue, expenditure and assets from any attempt by members of the public, contractors, agents, intermediaries, volunteers, Councillors or its own employees to gain financial or other benefits by deceit, bias, dishonest or otherwise corrupt conduct.

Fraud or corrupt conduct controls will ensure that such activity is discouraged, avoid conflict of interest and through auditing, will deter and/or identify fraudulent or corrupt activities.

In accepting its responsibility for good governance of the municipality, Council will set the example for honesty and integrity in the provision of services to the community and the management of the Council organisation.

2. SCOPE

This policy applies to all employees, Councillors, and volunteers engaged directly by Council as well as all agents and contractors either engaged by Council or by an authorised contractor of Council.

All reports received will be fully investigated and appropriate action taken. Councillors and employees must be aware of Council's intention to suspend or dismiss employees, report internal and/or external fraudulent and/or corrupt activity to Victoria Police, the Local Government Inspectorate, the Victorian Ombudsman or IBAC and prosecute, where appropriate, Councillors or employees and any other parties to the matter, found to be involved in fraudulent or corrupt activities. Council will pursue recovery of any financial loss through civil proceedings.

3. DEFINITIONS

Fraud - is defined in Australian Standard AS8001-2008: Fraud and Corruption Control, as:



“Dishonest activity causing actual or potential financial loss to any person or entity including theft of moneys or other property by employees or persons external to the entity and where deception is used at the time, immediately before or immediately following the activity. This also includes the deliberate falsification, concealment, destruction or use of falsified documentation used or intended for use for a normal business purpose or the improper use of information or position for personal financial benefit.

The theft of property belonging to an entity by a person or persons internal to the entity but where deception is not used is also considered “fraud” for the purposes of this definition.”

Examples are:

- Theft and/or misappropriation of Council revenue in the form of cash, cheques, money order, electronic funds transfer or other negotiable instrument.
- Unauthorised removal of equipment, parts, software, and office supplies from Council premises.
- Deliberate over-ordering of materials or services to allow a proportion to be used for personal purposes.
- Submission of sham taxation arrangements for an employee or contractor to circumvent Council’s procedures for engagement of employees and contractors.
- Submission of fraudulent applications for reimbursement.
- Payment of fictitious employees or suppliers.
- Falsification of time records.
- Damage, destruction or falsification of documents for the purpose of material gain.
- Failure to disclose a conflict of interest in the performance of duties as a Councillor, employee or contractor of Council.
- Any computer related activity involving the alteration, destruction, forgery or manipulation of data for fraudulent purposes or misappropriation of Council-owned software.

Corruption - is defined in Australian Standard AS8001-2008: Fraud and Corruption Control, as:

“Dishonest activity in which a director, executive, manager, employee or contractor of an entity acts contrary to the interests of the entity and abuses his/her position of trust in order to achieve some personal gain or advantage for him or herself or for another person or entity.”

Conflict of interest - There is a general ethical obligation for public officers (including both Councillors and Council Officers) to avoid conflicts of interest. The *Local Government Act 1989* sets down particular obligations and prohibitions that apply to Councillors and others in relation to ‘interests’ and ‘conflicts of interest’. These obligations and prohibitions must be understood within the specific terms of the *Local Government Act 1989*.



The expression 'conflict of interest' may be more fully expressed as a 'conflict between personal interest and public duty'. The fundamental ethical rule is that a public official should not allow a conflict to exist between personal interest and public duty.

Further Ethical Rules - The general rule on conflict of interest gives rise to some further ethical rules:

- A public official must use the power of office solely for the purpose laid down by law.
- A public official must not use information gained from their office to benefit themselves or any other person, or to cause detriment to the public interest or to any other person.
- A person who holds more than one position must not allow a conflict between the duties of those positions (a conflict of duty).

4. ROLES AND RESPONSIBILITIES

Responsibility for fraud and corrupt conduct prevention rests with all levels of management, Councillors, employees (including Officers), volunteers and agency or contract or who represent Council and who collectively must accept ownership of the controls relative to this policy. All parties must comply with the policy.

4.1 Chief Executive Officer

As of 2 December 2016, the obligation to report suspected corrupt conduct rests with the relevant principal officer (in Council's case the Chief Executive Officer). This obligation cannot be delegated. Where another person is acting as the relevant principal officer, the obligation applies to that person. The relevant principal officer must notify IBAC of all instances of suspected corrupt conduct occurring in their own organisation, and suspected corrupt conduct occurring in other organisations where it is connected with the relevant principal officer's duties, functions and exercise of powers. There is no legislative obligation for relevant principal officers to search out corrupt conduct, only to report it when suspected. Agencies should ensure that appropriate internal systems are in place so matters involving corrupt conduct reported by staff are forwarded to the relevant principal officer.

4.2 Executive Leadership Group

The Executive Leadership Group should make the principal officer aware of any suspected fraud or corrupt conduct control to ensure compliance with the relevant Australian Standards and appropriate governance structures are in place.

4.3 Senior Leadership Group

Senior managers will ensure that all contractors working for their Division/Unit are aware of Council's Fraud and Corruption Policy and Procedure and that it is incorporated into the relevant contract and will ensure that the contractor's employees are made aware of their responsibilities and unacceptable behaviours.



Senior managers have a responsibility to:

- Identify risk exposures to corrupt and fraudulent activities within their Department/Units.
- Establish controls and procedures for prevention and detection of such activities.
- Provide guidance and instruction to all employees relative to responsibilities and fraud and corrupt conduct reporting requirements.
- Maintain effective auditing and reporting on key financial systems.
- Undertake a risk assessment on fraud and corrupt conduct control as required.
- Implement action plans identified in risk assessment to eliminate or reduce the risk of fraud and corrupt conduct.
- Monitor and actively manage excessive outstanding leave of employees in risk exposure areas.

4.4 Employees/Contractors/Volunteers

Employees/contractors/volunteers will assist in the identification of risk exposures to corrupt or fraudulent activities in the workplace and the immediate reporting of possible activities.

4.5 Councillors

Councillors will be made aware of this policy and trained as appropriate.

4.6 Training

Councillors and employees will be informed of this policy and the consequences arising from fraud and corrupt conduct, and who to speak to if they suspect fraud and/or corrupt conduct is occurring. Training on the conduct of risk assessments will also be provided as part of Councillor and employee induction by the Risk Team.

5. FRAUD RISK ASSESSMENT

Council's commitment to fraud and corrupt conduct control will be met by identifying opportunities for fraud and corrupt conduct, and implementing risk avoidance, prevention, minimisation procedures in day to day operations and showing coverage in Council's Risk Register. The assessment of risk will be done using the Risk Framework which classifies risks as low, medium, high and very high.

6. PROCEDURES FOR REPORTING FRAUD AND CORRUPTION

The following procedure will be used to report suspected fraudulent or corrupt conduct.

6.1 Employees

Where an employee suspects that fraudulent or corrupt conduct is occurring, or has occurred, the employee should report those suspicions to their Manager.

Where the employee does not feel comfortable reporting their suspicions to their Manager, they should report such matters to the relevant Director.



If neither of the above options is appropriate, then the employee should report such matters to the Manager People and Culture.

6.2 Director or Manager

On receiving a report of suspected fraud or corrupt conduct, the Director or Manager must record details of the report, including the time and date the report is made and details of matters raised.

Where the issue may involve disciplinary action against an employee, the Manager People and Culture must be advised.

6.3 Notifying the Chief Executive Officer (CEO)

Except where it has been reported as a disclosure *pursuant to the Protected Disclosure Act 2012* which is 'protected' under that Act, all reported incidents of suspected fraud or corrupt conduct must be immediately reported to the CEO by the Director or Manager prior to any investigation of such allegations being undertaken.

6.4 Anonymous Reports

Anonymous reports may be directed to the CEO. Adequate supporting information to enable an investigation to be undertaken must be provided.

6.5 Contractors

Contractors or other people involved in the contracting process may become aware of, or have information indicating, fraudulent or unfair activity in relation to the tender processes or service provision. Contractors may feel reluctant to report suspected fraud or corrupt conduct or other behaviour that is intimidatory or grossly unfair, for fear of repercussions affecting their future business dealings with Council. If these circumstances arise, contractors are requested to contact the relevant Contract Manager, CEO or relevant Director.

7. SUPPLIER/CONTRACT VETTING

To help reduce the risk of fraud and corruption in its procurement and contracting processes, Council will:

- Require respondents to tender invitations to declare any conflict of interest they may have in relation to the procurement activity.
- Conduct security vetting of suppliers and contractors in accordance with the *Personnel Security Policy and Procedure*.
- Ensure that adherence to the *Staff Code of Conduct*, and policies and procedures, is included in all contracts with external suppliers.
- Review vendor records regularly to maintain accuracy and currency.
- Maintain a register of all contractors.



8. EMPLOYMENT CONDITIONS

8.1 Pre-employment screening

Pre-employment screening is considered by Council to be an important first step in reducing the likelihood of fraud or corrupt conduct occurring by ensuring Council employs honest and trustworthy people. As part of Council's pre-employment screening process, criminal history checks may be requested from people who will be in positions where fraud or corrupt conduct is more likely to occur. Reference checks are recommended for all employee appointments.

9. PROCEDURES FOR FRAUD INVESTIGATION

9.1 Preliminary Investigation

Where information received by the CEO is assessed to warrant investigation, arrangements for such an investigation will be made with the relevant Director. This arrangement will include securing all related documentation and may include suspension of employee(s) being investigated.

Reports will be received in confidence and the person reporting the suspected fraud or corrupt conduct will be protected from any adverse repercussions, provided that there is no evidence of malice.

Any person contacted by an investigator should cooperate with the process.

9.2 Investigation

Depending on the nature of the allegations, investigations will be undertaken in accordance with sound investigative practices. All potential instances of fraud or corrupt conduct or 'protected' disclosures will be referred to an independent third party for investigation.

Where external investigation is required, for example, Victoria Police or other independent investigators, they will be in charge of such investigation.

Where the allegation has arisen through a 'protected' disclosure, the investigation will be in accordance with the *Protected Disclosure Act 2012* Policy and Procedures (Executive).

In all cases confidentiality, will be maintained and the principles of natural justice adhered to.

9.3 Media

Council's media process will be observed at all times, and employees, Councillors or other people associated with Council will only make public comment in relation to any suspected fraud or corrupt conduct, whether proven or otherwise if approved by the Communications Unit.



9.4 Audit Committee (external reporting)

All incidences of proven fraud and/or corrupt conduct will be reported to the Chair of the Audit Committee in a timely fashion.

10. HUMAN RIGHTS CHARTER COMPATIBILITY

This Policy has been assessed as being compatible with the *Charter of Human Rights and Responsibilities Act 2006*.

11. ASSOCIATED LEGISLATION AND DOCUMENTS

Australian Standard on Fraud Control and Corruption Control (AS 8001: 2008)

Australian Standard in Risk Management (AS 4360: 2004)

Charter of Human Rights and Responsibilities Act 2006

Councillors' Code of Conduct

Public Administration Act 2004

Independent Broad-Based Anti-Corruption Commission Act 2011

Internet and Email Policy

Local Government Act 1989

Protected Disclosures Act 2012

Protected Disclosure Procedures

Protected Disclosure Guidelines 2016

Protected Disclosures Regulations 2013

Staff Code of Conduct

Risk Management Policy

Security and Use of Council Computer Equipment Policy

Staff Gift & Benefit Policy